

A N O R D I N A N C E

TO AMEND THE CODE OF ORDINANCES OF THE CITY OF GREENVILLE
TO INCLUDE THE OFFENSE, EXCEPTIONS, DEFINITIONS, AND PENALTIES
OF DISTRACTED DRIVING

WHEREAS, City Council has reviewed or received reports on national data indicating that texting and the use of cellphones, smart phones, and similar hand held devices create undue distractions for persons operating cars, trucks, and other vehicles on streets and highways; and

WHEREAS, such studies are reliably and clearly presented in the website of the United States Government at DISTRACTION.GOV, and those findings are incorporated herein by reference; and

WHEREAS, City Council nonetheless recognizes that itemizing all types of distracted driving is not feasible and crafting an understandable ordinance to address all conceivable situations would undermine the opportunity to promote safe driving by addressing a substantial portion of those situations as provided here; and

WHEREAS, City Council finds it is in the best interest of the City's citizens, residents, and visitors to take action to improve the safety of our streets by permitting the use of mobile phones and other mobile communication devices by drivers only when such devices are used in a "hands free" device configuration; and

WHEREAS, City Council finds it necessary for the benefit of the City's citizens, residents, visitors, and law enforcement to clearly identify which activities are prohibited and which activities are permitted with regard to operating a vehicle while using a mobile hand held communication device; and

WHEREAS, City Council finds the clearest, most understandable, and most reasonably enforceable method of addressing the growing issue of drivers distracted by the use of mobile communication devices is to provide a bright line standard of permitting drivers to use mobile communication devices in a hands free mode only; and

WHEREAS, City Council finds operators of motor vehicles, motorcycles, mopeds, and bicycles who use mobile communication devices pose similar dangers to the City's citizens, residents, and visitors;

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF GREENVILLE, SOUTH CAROLINA:

SECTION 1. The provisions for a Distracted Driving Ordinance as set forth on the attached exhibit are to be enacted and shall become effective April 1, 2014.

SECTION 2. The Municipal Code Corporation as the codifier of the Code of Ordinances, in consultation with the City Attorney, shall assign a code section number or numbers and incorporate the provisions into the Code of Ordinances.

DONE, RATIFIED AND PASSED THIS THE 10 DAY OF FEBRUARY, 2014.



MAYOR

ATTEST:



CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

REVIEWED:



CITY MANAGER

EXHIBIT

Distracted Driving

(a) Offense: No person shall operate a motor vehicle, motorcycle, moped, or bicycle on, or in, a public street, public highway, public parking lot, or public parking garage while using a mobile phone or other portable electronic communication device.

(b) Exceptions: The provisions of this section shall not apply to the following:

- (1) The operator of a motor vehicle, motorcycle, moped, or bicycle that is legally parked.
- (2) The operator of a motor vehicle, motorcycle, moped, or bicycle who is using a mobile phone or other portable electronic communication device that is specifically designed and configured to allow hands free use and is being used in that manner.
- (3) A law enforcement officer, firefighter, emergency medical services personnel, ambulance driver, or other similarly employed public safety personnel using a mobile phone or portable electronic communication device solely for the performance of his or her official duties.
- (4) The operator of a motor vehicle, motorcycle, moped, or bicycle using a mobile phone or other portable electronic communication device to report a crime or emergency situation to the appropriate authorities.

(c) Definitions:

- (1) *Bicycle* shall be given its plain and ordinary meaning of a two wheeled, human propelled conveyance. Bicycle shall include said human propelled conveyances with any number of wheels, including but not limited to three wheelers.
- (2) *Mobile phone* means a mobile, wireless telephone.
- (3) *Motor vehicle* is defined by Title 56, Chapter 1, Article 1, §56-1-10(7) of the South Carolina Code of Laws.
- (4) *Motorcycle and moped* shall be defined by Title 56, Chapter 1, Article 1, §56-1-10(8) of the South Carolina Code of Laws.
- (5) *Operate* means to drive or ride a motor vehicle, motorcycle, moped, or bicycle including while temporarily stationary because of traffic, a traffic control device, or other momentary delays.
- (6) *Other portable electronic communication device* means a mobile phone, cellphone, text-messaging device, personal digital assistant, computer, tablet, or any other substantially similar wireless device that is used to initiate or receive a wireless communication or data. Other portable electronic communication device does not mean a direct connect, two-way, push button activated, voice radio.
- (7) *Using a mobile phone or other portable electronic communication device* means talking into, listening to a communication on, sending text messages with, reading text messages on the screen of, sending e-mail with, reading e-mail on the screen of, or viewing the screen of said device.
 - (a) A person who holds a mobile phone or other portable electronic communication device up to, or proximately near, his or her ear is presumed to be using it to talk into or listen to a communication on said device in violation of this section.

(b) A person who holds a mobile phone or other portable electronic communication device while manipulating the keyboard or screen is presumed to be using it to read or send text messages, read or send e-mails, or view the screen of said device in violation of this section.

(8) Using a mobile phone or other portable electronic communication device that is specifically designed and configured to allow hands free use and is being used in that manner means the operator of a vehicle is not holding the mobile device with either hand. The act of touching a mobile device that is in a cradle or other stationary device attached to the dashboard, instrument panel, or console with one's finger to receive a call, terminate a call, or initiate a function of such device is still considered using said device hands free. The act of touching a mobile device, whether it is being hand held or not, to text message is never considered hands free.

(d) Penalties:

- (1) A violation of this section shall be punishable by a fine of:
 - (a) up to \$100 plus court costs for a first offense;
 - (b) up to \$200 plus court costs for a second offense occurring within one year of a first offense; and
 - (c) up to \$300 plus court costs for a third or subsequent offense occurring within one year of a second offense.
- (2) In the discretion of the Municipal Court, upon a conviction for a third or subsequent offense, the offending cell phone or other portable electronic communication device may be seized and destroyed.